



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

January 9, 2019

Paul O'Keefe  
Vice President of Operations  
Massachusetts Maritime Academy  
101 Academy Drive  
Buzzards Bay, Massachusetts, 02532

Re: **NOTICE OF NONCOMPLIANCE**  
Enforcement Document Number: 00004632

Noncompliance with M.G.L. Chapter 21, §§26 through 53 and 314 CMR 3.19

At: **Massachusetts Maritime Academy**  
**Wastewater Treatment Plant**  
**Taylor Point**  
**Buzzards Bay, MA 02532**

NPDES #MA0024368

Issuing Bureau: BWR  
Issuing Region/Office: SERO  
Issuing Program: WPC  
Primary Program Cited: WPC  
Suffix(es): NPDES

Dear Mr. O'Keefe:

Department of Environmental Protection (MassDEP) personnel have observed or determined that on or about August 21, 2017, activity occurred at MMA Wastewater Treatment Plant at Taylor Point, Buzzards Bay, in noncompliance with one or more laws, regulations, orders, licenses, permits, or approvals enforced by MassDEP.

Enclosed please find a Notice of Noncompliance, an important legal document describing the activities that are in noncompliance, the requirements violated, the action the MassDEP now wants to be performed, and the deadline for taking such actions..

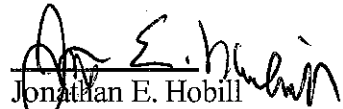
If you fail to comply with the attached actions to be taken, by the prescribed deadlines, you may be subject to legal action, including, but not limited to, criminal prosecution, court-imposed civil penalties, or civil administrative penalties assessed by the MassDEP. A civil administrative penalty may be assessed for every day from now on that you are in noncompliance with the requirements referred to above.

If you have any questions regarding this matter, please contact Patti Kellogg of this office at (508)-946-2724.

Sincerely,

Date: \_\_\_\_\_

1/9/19

  
Jonathan E. Hobill  
Regional Engineer,  
Bureau of Water Resources

JH/pk  
Enclosure

cc:

File Copy/Data Entry Copy

ecc: Bourne Board of Health  
David Johnston, MassDEP SERO Deputy Regional Director, BWR  
Dave Burns, MassDEP SERO – NPDES  
Susannah King, MassDEP Boston NPDES  
Lisa Ramos, DEP SERO Regional Enforcement Coordinator  
David Turin, EPA [Turin.David@EPA.gov](mailto:Turin.David@EPA.gov)

## **NOTICE OF NONCOMPLIANCE**

THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.

Based on the Department of Environmental Protection's (MassDEP) investigation on or about August 21, 2017, noncompliance occurred or was observed at MA Maritime Academy in Buzzards Bay in violation of one or more laws, regulations, orders, licenses, permits or approvals enforced by MassDEP.

This Notice of Noncompliance describes (1) the requirement violated, (2) the date and place on which MassDEP asserts the requirement was violated, (3) either the specific actions which must be taken in order to return to compliance or direction to submit a written proposal describing how and when you plan to return to compliance, and (4) the deadline for taking such actions or submitting such a proposal.

If the required actions are not completed by the deadlines specified below, an administrative penalty may be assessed for every day after the date of receipt of this Notice that the noncompliance occurs or continues. MassDEP reserves its rights to exercise the full extent of its legal authority in order to obtain full compliance with all applicable requirements, including, but not limited to, criminal prosecution, civil action including court-imposed civil penalties, or administrative action, including administrative penalties imposed by MassDEP.

### **NAME OF ENTITY(S) IN NONCOMPLIANCE:**

Massachusetts Maritime Academy  
101 Academy Drive  
Buzzards Bay, MA 02532

### **LOCATION(S) WHERE NONCOMPLIANCE OCCURRED OR WAS OBSERVED:**

Massachusetts Maritime Academy  
Wastewater Treatment Plant  
Taylor Point  
Buzzards Bay, MA 02532

### **ENFORCEMENT DOCUMENT NUMBER:**

### **DATE(S) WHEN NONCOMPLIANCE OCCURRED OR WAS OBSERVED:**

August 21, 2017

DESCRIPTION OF THE REQUIREMENTS NOT COMPLIED WITH:

314 CMR 3.19(2): "Duty to Comply. The permittee shall comply at all times with the terms and conditions of the permit, any conditions included in a related water quality certification issued by the Department, 314 CMR, the Massachusetts Clean Waters Act, M.G.L. 21, §§26 through 53, and all other applicable state and federal statutes and regulations."

314 CMR 3.19(4): "Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and equipment installed or used to achieve compliance with the terms and conditions of the permit, and in accordance with 314 CMR 12.00."

DESCRIPTION OF NONCOMPLIANCE:

On August 21, 2017, the shoreline along the canal at Massachusetts Maritime Academy (MMA) turned milky white. MMA authorities were contacted and upon investigation determined that cleaning operations at the wastewater treatment plant discharged magnesium hydroxide into a storm drain.

MMA is authorized to discharge treated wastewater through Outfall 001 to the Cape Cod Canal and to discharge swimming pool water through Outfall 002 to the Cape Cod Canal.

Cape Cod Canal is a Class SB water, according to National Pollutant Discharge Elimination System (NPDES) Permit No. MA 0024368 (the "Permit"). MassDEP records indicate that your facility violated the Permit according to the following parameters:

1. Violations of Part I.A.1.a. of the Permit: "The discharge shall not cause a violation of the water quality standards of the receiving waters." Massachusetts regulations at 314 CMR 4.05(4)(b) specify that SB waters "shall be free from floating, suspended and settleable solids in concentrations or combinations that would impair any use assigned to this class, that would cause aesthetically objectionable conditions, or that would impair the benthic biota or degrade the chemical composition of the bottom...[and] shall be free from color and turbidity in concentrations or combinations that are aesthetically objectionable or would impair any use assigned to this class."
2. Violations of Part I.D. of the existing permit: "Operation and maintenance of the sewer system" shall be in compliance with the General Requirements of the following terms and conditions:
  1. Maintenance Staff  
The permittee shall provide an adequate staff to carry out the operation, maintenance, repair, and testing functions required to ensure compliance with the terms and conditions of this permit.
  2. Preventative Maintenance Program  
The permittee shall maintain an ongoing preventative maintenance program to prevent overflows and bypasses caused by malfunctions or failures of the sewer system infrastructure. The program shall include an inspection program designed to identify all potential and actual unauthorized discharges.

3. The permit standard conditions for "Proper Operation and Maintenance" are found at 40 CFR §122.41(e). These require proper operation and maintenance of permitted wastewater systems and related facilities to achieve permit conditions. Similarly, the permittee has a "duty to mitigate" as stated in 40 CFR §122.41(d). This requires the permittee to take all reasonable steps to minimize or prevent any discharge in violation of the permit which has a reasonable likelihood of adversely affecting human health or the environment.

ACTION(S) TO BE TAKEN AND THE DEADLINE FOR TAKING SUCH ACTION(S):

**Within 30 days of receiving this NON you must take ALL the following actions:**

- Prepare a Return to Compliance (RTC) plan that sets forth how you will bring the facility into compliance and the specific timeframe when this will be done. Please refer to the checked items on the attached *Return to Compliance list* for the items your RTC plan must contain at a minimum.
- Begin implementation of the RTC plan recommendations in accordance with its deadlines and timeframes, unless otherwise directed by the Department.

Submit all information required under this Notice of Noncompliance to:

Patti Kellogg  
MassDEP – SERO  
20 Riverside Drive  
Lakeville, Ma 02347  
and  
David Turin  
U.S. EPA Region 1  
5 Post Office Square  
Mail Code: OES04-3  
Boston, MA 02109-3912


IMPORTANT INFORMATION

A civil administrative penalty may be assessed for every day that you are in noncompliance with the requirements referred to in this notice as provided in M.G.L. c. 21A, Sec. 16.

Notwithstanding this Notice of Noncompliance, the Department reserves the right to exercise the full extent of its legal authority in order to achieve full compliance with the applicable requirements including, but not limited to, criminal prosecution, court-imposed civil penalties, or civil administrative penalties.

Date: \_\_\_\_\_

1/9/19

  
Jonathan E. Hobill  
Regional Engineer,  
Bureau of Water Resources

**Return To Compliance Plan**

*As response to this notice of noncompliance (NON), you are required to submit a return to compliance (RTC) plan that sets forth how you will bring your facility into compliance and the specific timeframe when this will be done. DEP suggests your RTC plan include at a minimum the following checked items/information requests:*

- \_\_\_\_\_ Identification of the owner of the facility.
- x   Identification of the operator of the facility, including the license number, address, phone number, and grade level of the operator(s).
- \_\_\_\_\_ Discussion of the status of the contract, if the facility has a contract operator.
- \_\_\_\_\_ Identification of the consulting engineer.
- \_\_\_\_\_ Date of last facility inspection by your operator.
- x   Review and discussion of all violations.
- \_\_\_\_\_ Evaluation of influent flow and sources. Are conventional pollutants entering the system at higher concentrations than previously assumed? Are other pollutants contrary to the requirements of your sewer use regulations being discharged to your system?
- \_\_\_\_\_ Plan for increased sampling (effluent and/or monitoring wells) to confirm the magnitude and duration of the violation(s). As an example, the plan may call for increasing the sampling of monitoring wells for parameter X from quarterly to monthly. Plan should include submission of these sampling results to DEP.
- x   Detailed response of planned actions to correct the identified violations. Include a discussion of whether problems can be corrected either by improved operation & maintenance (O&M) or by modifications to the treatment works.
- x   Schedule to correct the violations. Note that any modifications to the treatment works, including new equipment, will require DEP approval of plans and specifications prior to implementation. O&M improvements can typically be implemented immediately.
- \_\_\_\_\_ Plan for any additional work, such as follow-up sampling, to confirm that the violations have been corrected.
- \_\_\_\_\_ Discussion of the current status of escrow and capital recovery accounts to finance immediate and long-term repairs/replacement of facility components.

**The RTC plan must be submitted to the Department within the timeline stated in the NON. The plan will be deemed approved, with implementation of its recommendations to commence as proposed, unless otherwise informed by the Department.**